

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THERYN RASHID JONES,

Plaintiff,

-against-

PAMELA S. ROTH, ESQ.,

Defendant.

24-CV-0499 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

On January 22, 2024, the court received the submission that was opened as the complaint in this action. Plaintiff's submission is labeled with case number 23-CV-9831 and is styled as an amended complaint. (ECF 1.) Plaintiff has another action pending in this court under case number 23-CV-9831. *See Jones v. Roth*, No. 23-CV-9831 (LTS) (S.D.N.Y.). In that action, by order dated January 2, 2024, the Court dismissed the complaint but granted Plaintiff leave to replead his claims in an amended complaint. ECF 1:23-CV-9831, 5.

After reviewing the complaint in this action, the Court believes that this action was opened in error, and that the complaint in this action should have been docketed as an amended complaint in case number 23-CV-9831 (LTS). The Court therefore dismisses this action, No. 24-CV-0499 (LTS), as opened in error. The Court directs the Clerk of Court to docket the complaint in this action (ECF 1) as an amended complaint in No. 23-CV-9831. This action is dismissed without prejudice to Plaintiff litigating his claims in No. 23-CV-9831.

In light of the Court's belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

CONCLUSION

The Court dismisses this action as opened in error, without prejudice to Plaintiff litigating his claims in No. 23-CV-9831.

The Court directs the Clerk of Court to docket the complaint in this action (ECF 1) as an amended complaint in No. 23-CV-9831.

The Court further directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court also directs the Clerk of Court to enter judgment dismissing this action as opened in error and without prejudice to Plaintiff's claims in No. 23-CV-9831 (LTS).

SO ORDERED.

Dated: January 25, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge